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## TITLE 470 DIVISION OF FAMILY AND CHILDREN

### Proposed Rule LSA Document #02-74

#### DIGEST

Amends 470 IAC 3.1-12-2 to include fees received pursuant to the cost participation legislation (IC 12-17-15-17) as a funding source for assistance to children eligible for early intervention services. Adds 470 IAC 3.1-12-7 to adopt cost participation procedures. This rule originally established a comprehensive system of early intervention services for eligible infants and toddlers with disabilities and their families. Effective 30 days after filing with the secretary of state.

#### 470 IAC 3.1-12-2

#### 470 IAC 3.1-12-7

SECTION 1. 470 IAC 3.1-12-2 IS AMENDED TO READ AS FOLLOWS:

#### 470 IAC 3.1-12-2 Funding sources

**Authority:** IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

**Affected:** IC 12-17-15

Sec. 2. (a) The individualized services specified in 470 IAC 3.1-4-2, provided to eligible infants and toddlers and their families, shall be financed through multiple funding sources. Sources which may be available to finance individualized services, as appropriate, may include, but are not limited to, the following:

- (1) Title XIX of the Social Security Act (Medicaid).
- (2) Third party payors, including private health insurers.
- (3) Any medical program administered by the Secretary of the United States Department of Defense.
- (4) Cost participation by the parent of an eligible child that receives early intervention services, pursuant to and in accordance with IC 12-17-15-17(b) through IC 12-17-15-17(e).**

(b) All infants and toddlers and their families who are eligible for early intervention services through Medicaid and Childrens' Special Health Care Services must apply for Medicaid and Childrens' Special Health Care Services.

(c) Third party payors, such as health insurance companies, may be billed for the costs of appropriate early intervention services with informed, written parental consent through financial case management.

(d) Notwithstanding subsections **(a)(4)**, (b), (c), and ~~section sections 3 and 7~~ of this rule, the provision of early intervention services may not be denied or delayed due to disputes between service providers or other agencies regarding financial responsibility to pay for early intervention services, **nor because of the inability of the parent of an eligible child to pay for services, under a cost participation plan.**

(e) Nothing in this article shall be construed as restricting any service provider from providing services to any person regardless of eligibility status; however, no service provider may utilize any early intervention system funding source for services provided to any ineligible child or family or file claims for reimbursement from the early intervention system for services rendered to such child or family. (*Division of Family and Children; 470 IAC 3.1-12-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1345; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2266; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 2. 470 IAC 3.1-12-7 IS ADDED TO READ AS FOLLOWS:

**470 IAC 3.1-12-7 Cost participation plan**

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 7. (a) As used in this section, family of an eligible infant or toddler shall be composed of members who live in the same household as the eligible infant or toddler and include only the following members:

- (1) Biological parent.
- (2) Adoptive parent.
- (3) Sibling.
- (4) Half-sibling.
- (5) Adoptive sibling.

(b) The division shall establish and implement cost participation plan procedures for charges and fees imposed by service providers for the individualized services specified in:

- (1) 470 IAC 3.1-4-2(a)(2) through 470 IAC 3.1-4-2(a)(4);
- (2) 470 IAC 3.1-4-2(a)(6) through 470 IAC 3.1-4-2(a)(10);
- (3) 470 IAC 3.1-4-2(a)(12) through 470 IAC 3.1-4-2(a)(14); and
- (4) 470 IAC 3.1-4-2(a)(16).

(c) The cost participation plan procedures for each eligible family shall be based upon the following:

(1) The following schedule of costs, which expires on July 1, 2005:

Percentage of Federal Income Poverty Level		Copayment Per Treatment	Maximum Monthly Cost Share Per Family
At Least	But Not More Than		
0%	350%	\$0	\$0
351%	450%	\$5	\$25
451%	550%	\$10	\$50
551%	650%	\$15	\$75
651%	750%	\$20	\$100
751%	850%	\$25	\$125
851%	1000%	\$30	\$150
1001%		\$36	\$180

(2) The parent's ability to pay.

(d) The division may waive or reduce a required copayment if:

- (1) out-of-pocket medical expenses and personal care needs expenses incurred, within the previous twelve (12) month period preceding the date of application that relate to the health or medical needs of a family member reduce the level of income the parent has to a lower level found in the schedule of costs at subsection (c)(1); or
- (2) the division receives payment from a parent's health care coverage and does not exceed more than three thousand five hundred dollars (\$3,500) per eligible child, per year.

(e) A parent who fails to provide the financial information for the division to be able to determine the copayment amount shall pay the maximum level copayment found in the schedule of costs at subsection (c)(1).

(f) The division may allow and accept voluntarily contributed payments that exceed the parent's required copayment amount.

(g) The parent's cost participation amount shall be reviewed by the division for one (1) or both of the following:

- (1) Annually.
- (2) Within thirty (30) days after the parent reports a reduction in income.

**(h) The SPOE shall notify the parent of the following:**

**(1) The copayment amount per treatment and the maximum monthly cost share per family.**

**(2) Any recalculated copayment amount per treatment and the maximum monthly cost share per family determined under subsection (g)(1) or (g)(2).**

**(i) The parent may request reconsideration by the division of the copayment amount within fifteen (15) days from the date the notification of the copayment amount was received by the parent. The request for reconsideration shall:**

**(1) be written;**

**(2) be sent to the director of the division; and**

**(3) state the specific reasons the copayment amount should be reconsidered.**

**(j) The division shall establish and implement procedures to assure timely reimbursement of the copayment by parents for early intervention services required under this section.**

**(k) The copayments that are received by the division under this cost participation plan must be used to fund the early intervention system. (Division of Family and Children; 470 IAC 3.1-12-7)**

### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on October 28, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana; AND on October 28, 2002 at 1:00 p.m. at Indiana University North, 1700 Mishawaka Avenue, Rooms 223 and 225, South Bend, Indiana; AND on October 28, 2002 at 1:00 p.m. at Indiana University South East, 4201 Grant Line Road, Hoosier West Room, New Albany, Indiana the Division of Family and Children will hold a public hearing on proposed amendments to amend 470 IAC 3.1-12-2 to include fees received pursuant to the cost participation legislation (IC 12-17-15-17) as a funding source for assistance to children eligible for early intervention services and add 470 IAC 3.1-12-7 to adopt cost participation procedures. Written comments may be directed to the First Steps Early Intervention System, Bureau of Child Development, 402 West Washington Street, Room W386, MS 02, Indianapolis, Indiana 46204 ATTENTION: FS Rule Comments.*

*Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W386, MS 02, each First Steps Council and SPOE around the state, and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

John Jay Boyce  
Director  
Division of Family and Children